

## PLANNING COMMISSION MINUTES

April 1, 2008

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Barbara Holt, Dave Badham, Michael Allen, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Absent: Ray Keller.

Clark Jenkins welcomed all those present.

Michael Allen made a motion to approve the minutes for March 18, 2008 as written. Beth Holbrook seconded the motion and voting was unanimous in favor.

### **1. PUBLIC HEARING - Consider a variance to allow building on a reduced front yard setback located at 3007 S. David Blvd., Christopher Dunn, applicant.**

Christopher and Heather Dunn, applicants, were present. Aric Jensen explained that Chris and Heather Dunn are requesting a variance from the street side yard setback requirements of the R-3 zone in order to construct an attached two car garage. The home was originally built in 1953, and the majority of the surrounding homes were constructed around the same time. As a result, there are a lot of non-conforming setbacks in the area.

The home is located along Davis Blvd., which is a 100' wide right-of-way, but with only about 50 feet of actual constructed improvements, and no sidewalks. So the front property line is set back about 25 feet from the curb and gutter, and the home is set back another 30 plus feet from the property line, for a total of about 60 feet. In addition, there is an elevation change of approximately 13 to 14 feet between the curb along Davis Blvd. and the main floor elevation.

The home has a basement, but the only access to it is from the exterior and there is no internal stairway between the basement and the main floor. The home is not rectilinear, but is constructed along a mild arc.

Mr. Jensen explained that the following is a conforming copy of Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances.

#### ***10-9a-702. Variances.***

*(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.*

*(2) (a) The appeal authority may grant a variance only if:*

- (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*
- (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;*
- (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*
- (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and*
- (v) the spirit of the land use ordinance is observed and substantial justice done.*
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:*
  - (A) is located on or associated with the property for which the variance is sought; and*
  - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:*
  - (i) relate to the hardship complained of; and*
  - (ii) deprive the property of privileges granted to other properties in the same zone.*
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.*
- (4) Variances run with the land.*
- (5) The appeal authority may not grant a use variance.*
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:*
  - (a) mitigate any harmful affects of the variance; or*
  - (b) serve the purpose of the standard or requirement that is waived or modified.*

In regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioners have shown that they meet all of the necessary criteria such that the Commission may grant a variance.

First, literal enforcement of the ordinance would create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance, i.e., Due to the natural topography and existing conditions on the site, it is not reasonably feasible to construct an attached garage in any other location on the property without substantial hardship. Planning Staff and the applicant looked at various alternatives, including constructing a driveway off of Davis Blvd., but that would have resulted either in a driveway over 15% slope or a garage at the

basement level with a 9 to 10-foot cut on both sides. And either way, it would have entailed building the structure in front of the existing front door.

Second, there are special circumstances which apply to this property that does not apply to all other properties in the neighborhood; specifically, this lot is on the uphill side of Davis Blvd., the home is irregularly shaped and oddly situated, and the home was originally constructed without a garage.

Third, the spirit of the Ordinance is upheld and substantial justice is done by allowing the applicant to bring his home into conformance with current City Ordinance, which requires a two-car garage on all new homes

Fourth, this is not contrary to the general plan, which calls for single family development and related accessory structures.

Fifth, in regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Sixth, a two-car garage is an expected and necessary element of a residential structure in our climate, and denying the right to build such would be tantamount to denying the petitioners of a privilege afforded to other property owners in the area.

Staff recommends approval of the variance from the Land-Use Ordinance regarding street side yard setbacks as shown on the proposed site plan, with the findings listed in the staff report, and with the understanding that the dimensions are measured at the foundation, and so the eaves of the proposed structure may encroach into the setback an additional foot or so.

Mr. Dunn explained that his greatest desire is to have a garage and he has been working with Mr. Jensen to work out a proposal that meets codes. The proposed site plan is the best solution to the problem with the configuration of the property.

The public hearing was opened for those with comments or concerns.

Ron Davis, residing at 3019 S. Davis Blvd., was concerned with the future possibility of widening David Blvd. Currently there is a 13-foot drop off from the street and if Bountiful City widened the road or added sidewalks the drop off would be very steep and unuseable. It would affect the homes on this section of Davis Blvd. Mr. Davis suggested changing the ordinance to accommodate the home owners in this area if they wish to change their property.

Russell Mahan mentioned that there have not been any suggestions on adding sidewalks or widening the road in this area. If it ever were to be done, the steepness of the front properties would have to be considered.

The public hearing was closed without further comments.

There was a discussion among the Commission regarding the garage entrance and the length of the driveway.

Barbara Holt made a motion to grant the variance located at 3007 S. David Blvd. subject to the conditions outlined by Staff and with the findings that it does meet the State Code for granting a variance. Dave Badham seconded the motion and voting was unanimous in favor.

**2. PUBLIC HEARING - Consider final subdivision plat approval for Orchard Pines located at 2135 S. Orchard Dr., Brian Knowlton, applicant.**

Brian Knowlton, applicant, was present. Paul Rowland explained that Mr. Knowlton is requesting final PUD plat approval for the commercial phase of the Orchard Pines mixed used development. The Planning Commission recently reviewed the site plan for the development which consists of two commercial buildings fronting onto Orchard Drive, and a series of 47 townhome style condominiums with individual garage parking located along a winding lane that connects to 2200 South at two locations.

Mr. Knowlton has now completed the subdivision plat for the commercial phase of the project, which has the two lots fronting onto Orchard Drive and a portion of the loop road which will be shared by the commercial side and the residential side of the development. The two lots are each a little over ½ acre in size and will share access, drainage and some parking. A potential owner for Lot 1 is currently working on final site plan development for the lot and will be before the Commission soon for site plan review.

Most of the fees were paid and all of the bonds were posted for the entire development last fall when final site plan approval was granted, so no additional bonds will be required with this plat approval.

The public hearing was opened for those with comments or concerns.

Arvilla Child, residing at 209 E. 2200 S., asked to see a map showing the proposed site. Mr. Rowland presented a map and answered any questions she had.

The public hearing was closed without further comments.

Staff recommended that the Planning Commission send a favorable recommendation to the City Council for final PUD plat approval of the Orchard Pines PUD Commercial Phase with the following conditions:

1. Pay Plat Recording fee of \$50.00
2. Make redline corrections to the plat

3. Provide a current title report

Beth Holbrook made a motion to recommend to the City Council final plat approval for Orchard Pines PUD Commercial Phase subject to the conditions outlined by Staff. Barbara Holt seconded the motion and voting past by majority vote 5-0. Tom Smith abstained from voting.

### **3. Review proposal for revision of the Bountiful City General Plan.**

Aric Jensen explained that the following is a proposed committee schedule for the 2008 General Plan. If there are any conflicts with the committees, Mr. Jensen will make changes as necessary.

#### **2008 General Plan Update Proposed Committee Structure**

Land-use Committee – Beth Holbrook, Clark Jenkins, Fred Moss  
Moderate Income Housing Plan  
Master Land Use Plan

Transportation Committee – Mike Allen, Barbara Holt, Scott Myers  
Transportation Master Plan (includes Street Master Plan)

Recreation Committee – Dave Badham, John Knight, Mayor Johnson  
Trails Master Plan  
Parks Master Plan

Downtown Committee – Tom Smith, Ray Keller, Tom Tolman  
Historic Downtown Master Plan

1. Each committee has at least one City Council representative and at least one Planning Commission representative. These committees can be rearranged as necessary to accommodate schedules and interests.
2. After a more in-depth analysis, the Moderate Income Housing Plan will be research intensive, with little actual work for the committee members other than some basic policy recommendations, so I don't believe a separate committee is needed.
3. The Parks Master Plan may need to be bumped a year depending on workload.
4. The Downtown Committee will primarily be responsible for finishing the work started two years ago, and updating it as necessary.

Russell Mahan explained that the State Law requires that the General Plan include the following

three elements:

1. Land Use Element.
2. Transportation and Traffic Circulation Element.
3. Moderate Housing Element.

It also states that it may include one or all of the following:

4. Environmental Element.
5. Public Service Facility Element.
6. Rehabilitation, Redevelopment and Conservation Element
7. Economic Element.
8. Any other Element as needed.

After a brief discussion it was suggested to combine the Economic Element with the Downtown Committee and that Public Facilities combine with Land-use Committee.

Clark Jenkins made a motion to approve the assignments to the 2008 General Plan Committee as proposed. Barbara Holt seconded the motion and voting was unanimous in favor.

Meeting adjourned at 7:55 p.m.